

“Date”

Mr. Wesley C. Pfeiffer
6736 Bellaire Drive
New Orleans, Louisiana 70124

RE: Ethics Board Docket No. 2021-285

Dear Mr. Pfeiffer:

The Louisiana Board of Ethics, at its July 9, 2021 meeting, considered your request for regarding the application of the Code of Governmental Ethics to you as a former Deputy Director of Ground Transportation Services and Enforcement within the Department of Safety and Permits for the City of New Orleans.

FACTS PROVIDED

You provided that you are the former Deputy Director of Ground Transportation (Taxicab) Services and Enforcement within the Department of Safety and Permits for the City of New Orleans, having served in said capacity until November 16, 2020. You stated that you oversaw and supervised all staff and operation of the Ground Transportation Bureau and that the Ground Transportation Bureau was tasked with the regulatory authority and enforcement of taxicab and other for-hire vehicles operating within the City of New Orleans. You stated that you are currently a licensed general contractor, having worked on home renovations and new construction outside the City of New Orleans but would like to expand your general contracting business to include the City of New Orleans as well as work with the ground transportation industry to provide transportation consulting, advising, code compliance and other vehicle related services. Following the termination of your public service on November 16, 2020, you seek guidance on the application of the Code of Governmental Ethics, and in particular, ask the following questions:

1. Please advise on what my “agency” is as defined by La. R.S. 42:1102(2)(a)(vi)?
2. Please advise if I am considered an “agency head” as defined by La. R.S. 42:1102(3)?
3. Based on La. R.S. 42:1121A(1), is there any prohibition against my participation in any transaction or appearance before any City departments to seek any type of permit or license on behalf of any company or individual that I may work for in the future?
4. Based on La. R.S. 42:1121B(1), please clarify any prohibitions that I might have with regard to any permitting or licensing applications submitted during my tenure?
5. Based on La. R.S. 42:1121C, is there any prohibition against any entity of which I have an ownership interest seeking permits or licenses engaging in any transaction with the City of New Orleans and whether La. R.S. 42:112B(2) and (3) apply to me after I resigned my employment with the City of New Orleans?

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LAW

La. R.S. 42:1121A(1) provides that no former agency head or elected official shall, for a period of two years following the termination of his public service as the head of such agency or as an elected public official serving in such agency, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency or render any service on a contractual basis to or for such agency.

La. R.S. 42:1121B(1) provides that no former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the governmental entity by which he was formerly employed, or for a period of two years following termination of his public employment, render, any service which such former public employee had rendered to the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with which he was formerly employed.

La. R.S. 42:1121C provides no legal entity in which a former public servant is an officer, director, trustee, partner, or employee shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such public servant at any time participated during his public service and involving the agency by which he was formerly employed or in which he formerly held office.

La. R.S. 42:1112B(2) and (3) prohibit a public servant from participating in a transaction involving the governmental entity in which, to his actual knowledge, (2) any person in which he has a substantial economic interest of which he may reasonably be expected to know; or (3) any person of which he is an officer, director, trustee, partner, or employee, has a substantial economic interest.

La. R.S. 42:1102(2)(a)(vi) defines "agency" for public servants of political subdivisions to mean the agency in which the public servant serves.

La. R.S. 42:1102(3) defines "agency head" to mean the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.

CONCLUSION

The Board concluded and addressed each of your specific questions as follows:

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1. Please advise on what my "agency" is as defined by La. R.S. 42:1102(2)(a)(vi)?

The Board concluded, and instructed me to inform you that your agency would be considered to be the Ground Transportation Bureau within the Department of Safety and Permits for the City of New Orleans.

2. Please advise if I am considered an "agency head" as defined by La. R.S. 42:1102(3)?

The Board concluded and instructed me to inform you that as the Deputy Director of Ground Transportation Services and Enforcement, you were the agency head of the Ground Transportation Bureau.

3. Based on La. R.S. 42:1121A(1), is there any prohibition against my participation in any transaction or appearance before any City departments to seek any type of permit or license on behalf of any company or individual that I may work for in the future?

The Board concluded and instructed me to inform you that as a former agency head, Section 1121A(1) would prohibit you until November 16, 2022, from assisting persons, for compensation, in a transaction involving Ground Transportation Bureau, however you would not be prohibited from assisting persons in transactions involving other departments, such as persons seeking permits or licenses for construction projects.

4. Based on La. R.S. 42:1121B(1), please clarify any prohibitions that I might have with regard to any permitting or licensing applications submitted during my tenure?

The Board concluded and instructed me to inform you that since under Section 1121B(1) you would be prohibited from assisting persons, for compensation, in a transaction involving the City of New Orleans in which you participated in during your tenure as a public employee.

5. Based on La. R.S. 42:1121C, is there any prohibition against any entity of which you have an ownership interest seeking permits or licenses or engaging in any transaction with the City of New Orleans and whether La. R.S. 42:112B(2) and (3) apply to you after you resigned your employment with the City of New Orleans?

The Board concluded and instructed me to inform you that Section 1121C prohibits your company from assisting another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which you at any time participated during your public service. However, since you are no longer a public servant, Section 112B would not be applicable to you.

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This advisory opinion is based solely on the facts as set forth herein. Changes to the facts presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Sincerely,

LOUISIANA BOARD OF ETHICS

Gregory L. Thibodeaux
For the Board

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only.
and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.